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April 22, 2008

United States District Court
Chambers of Hon. Harold Baer, Jr.
500 Pearl Street
New York, NY 10007

Attn: Linda Eckhouse

USDS SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: <u>412418</u>
DATE FILED: <u>4/24/08</u>

Re: Adonna Frometa v. Mario E. Diaz & All American Haulers & Recycling
Date of Loss: 2/14/2007
Our File No: SP07-001

Dear Ms. Eckhouse,

This office represents Plaintiff Adonna Frometa in the above named matter. Kindly accept this correspondence in response to defendant's late exchange of mandatory insurance coverage information dated April 16 and April 17th, 2008 (attached hereto). Defendants exchange of insurance information is deficient as follows:

1. Defendants disregarded this Court directive issued during last phone conference, requesting an Affidavit of no excess/umbrella coverage from their clients. Instead, they provided affidavits of another third party that possibly cannot have full information about defendants' insurance policies in effect on the date of this accident.
2. Provided affidavits of no excess/umbrella policies from the insurance broker for All American Haulers Recycling and Carolina Casualty Insurance Company do not state whether or not the defendants herein had excess or umbrella insurance with any other insurance carrier. They merely state that neither the insurance broker nor the Carolina Casualty Insurance Company provided such insurance to defendant All American Haulers Recycling on the date of the accident.
3. There was no information provided for the second named defendant Mario E. Diaz-Diaz regarding his primary or any applicable excess or umbrella coverage. However, this issue is under review of this Court and Plaintiff will obey any decision that will be issued resolving that dispute.

Plaintiff would like to bring to this Court's attention defendants' non-compliance and request a conference (either in person or via phone) to again address this issue. In lieu of upcoming mediation scheduled for April 29th, 2008, Plaintiff would like to be afforded an opportunity to examine any and all applicable insurance policies to be able to negotiate this case. To date Plaintiff was afforded inspection of the primary policy for All American Haulers Recycling only. It is my ethical obligation to my client to provide her with all information regarding the insurance coverage in this matter to make sure that she can make a sound decision regarding settlement of her own case.

Additionally, pursuant to this Court's Pre-Trial Scheduling Order, defendants were also late with exchanging their Expert Witness information. Subsequently, it was established by the Court that the discovery in this action can proceed up until the week before trial. It is Plaintiff's understanding that this decision would not in fact allow defendants' late Experts Witness disclosure. However, if this is the Court's intention to allow defendants' late Expert Witness disclosure, Plaintiff will accept such ruling and reserve her right to serve Experts Witness disclosure up until the week before the trial as well.

Should this application require personal appearance, Plaintiff is ready to submit this application at any time convenient to Court.

Very truly yours,

SLAWEK W. PLATTA, PLLC



Slawek W. Platta, Esq. (SP2699)

CC:

Wilson Elser Moskowitz, Edelman & Dicker, LLP

My own view is this is sufficient
but to be absolutely safe,
perhaps d b's can do no
better than meet furnish
the Court + the IT with an declaration
or affidavit that they understood
the Courts direction came up
only with regard to the records
furnished & the attorney for
the A declared it is the best
they can do after searching
available records of all
concerned & do so under
penalty of perjury.
And so directed.

SO ORDERED:
Harold Baer, Jr., U.S.D.J.

4/23/08

Endorsement:

My own view is this is sufficient but to be absolutely safe, perhaps if defendants can do no better they will furnish the Court and the plaintiff with a declaration or affidavit that they understand the Court's direction come up only with what they furnished and the attorney for the defendant declare it is the best they can do after searching available records of all concerned and do so under penalty of perjury and you are so directed.